



Post Office Box 2266
Salinas, California 92902
Telephone: (831) 424-8952
Fax: (831) 424-1974
E-mail: michael@boggiatto.com

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Federal Communications Commission
[sent via e-mail]

Re: CB Docket #02-278

To Whom It May Concern:

The Telephone Consumer Protection Act is a misguided, burdensome law that will have a serious negative effect on business throughout the country. The FCC should reconsider and clarify this new law so that business can proceed as usual, without undue stress.

The new fax rules will restrict our ability to communicate with our customers, necessitating hundreds of signed consent forms from them. The fresh produce business is a highly volatile business that requires almost instant communications and my business partners count on me to be able to provide this. We send out several hundred faxes daily, and these rules are extremely burdensome.

The proposed rule did not adequately provide notice to the business community that the FCC was thinking about eliminating the "established business relationship" exception for faxing altogether. Thus, we request that the Commission, at a minimum, reinstate this exception for unsolicited faxes.

The FCC's definition of "unsolicited advertisement" is so broad that it potentially includes many routine business fax communications, used daily between us and our established customers, which even for a small company like ours, number in the hundreds. Under the new law, we may be in violation by sending our customers, for which we have an established business relationship, a daily price list, which they have verbally requested and want to receive. The majority of our customers will not gladly and willingly send us their written signatures in order for us to send them information by fax. However, they will still expect us to fax them the information, creating a dilemma for us - send the customer what they want, or break the law!

Besides the initial expense of obtaining signatures, maintaining the files will be difficult and a large waste of our valuable human resources. We will have to keep all written requests for faxes on file and, because of rapidly changing area codes, will have to send

out updates to our entire list to be sure we are in compliance. What if a customer asks us to send a certain fax to another number? Under the proposed law, we will have to mail (not fax, because the request could be considered "unsolicited advertisement") a consent form and receive it back before we could legally send another fax. This is paperwork taken to ultra-extremes.

The Commission should find that a consent form itself is not an "unsolicited advertisement" if it merely requests consent and does not include any type of advertising material.

The Commission should exempt from the definition of an "unsolicited advertisement" any fax that is predominantly non-commercial in nature, for example, a newsletter that contains less than 25 percent advertising material.

What may have been a well-intended law to keep people from receiving a few unwanted pieces of faxed advertisements has turned into a severe law, which will serve only to make it more costly to do business. Let's use our heads and keep business rolling – Don't slow down the wheels of commerce.

Sincerely,

Michael E. Boggiatto
President